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EXAMINER

WHIPPLE, BRIAN P

ART UNIT	PAPER NUMBER
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2448

NOTIFICATION DATE	DELIVERY MODE
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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/657,888	Applicant(s) SWAHN, ALAN EARL	
	Examiner BRIAN P. WHIPPLE	Art Unit 2448	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-10,16,17,19,21-31 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-10,16,17,19,21-31 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-2, 6-10, 16-17, 19, 21-31, and 33 are pending in this application and presented for examination.

Response to Arguments

2. Applicant's arguments filed 8/30/10 have been fully considered but they are not persuasive.

3. As to claim 9, the applicant argues Rodefer teaches previewing webpages in static frames and not operating on them. The examiner respectfully disagrees. Rodefer discloses “multiple html links/targets referred to in any search results page [can] be automatically and individually loaded and opened” ([0040], ln. 2-4). Rodefer goes on to explain “[t]he multiple target sites/pages referred to in a results page can be opened... as separate browser windows/screens” ([0040], ln. 10-12). In other words, a plurality of pages may be individually loaded and opened in separate browser windows/screens. This implies the webpages are fully operational if they are loaded and opened into separate browser windows/screens.

Rodefer goes on to spell out an alternative embodiment related directly the applicant's claimed subject matter, “[the sites/pages] being ordered within individual browser frames that relate to and can be controlled by a separate static frame offering basic target

information” ([0040], ln. 12-15). In other words, as opposed to being individually loaded and opened in separate browser windows/screens, the pages may accomplish the same in individual browser frames. As opposed to the applicant's contention, it is not the individual pages loaded into a separate static frame. Rather, the separate static frame is separate from the individual pages in the other browser frames and may be used in relation to those pages.

Furthermore, the examiner believes the applicant is misinterpreting the being of a “static frame” to mean operations can not take place within the frame. Rodefer is in direct contrast to this interpretation, because the separate static frame is utilized to “[offer] basic target information and navigation tools” ([0040], ln. 14-15). In other words, the static frame is operational in that it can be used to both acquire information and navigate. Therefore, even the applicant were correct in the individual browser frames being static frames, which the examiner does not believe to be the case, they would still be able to include operations upon them.

4. Further regarding claim 9, the applicant argues Rodefer fails to disclose “substantially equal-sized regions.” The newly amended subject matter raises issues related to 35 U.S.C. 112, first and second paragraphs. Namely, the examiner believes the phrase to be unsupported by the specification and the term “substantially” is a relative term, which is vague and indefinite, with no corresponding definition given by the specification. In light of

a strict definition for the term, the examiner maintains the regions of Rodefer may be interpreted as substantially equal-sized.

5. As to claim 1, the applicant argues the prior art relied upon is silent on the search not being initiated automatically during off hours based on historical searching patterns of the user. This amendment is unsupported by the specification and raises issues of new subject matter under 35 U.S.C. 112, first paragraph. The language appears to have been added as a negative limitation intended to contrast against the prior art of Smith. The applicant is directed to section 2173.05(i) of the MPEP, which states in part:

Any negative limitation or exclusionary proviso must have basis in the original disclosure. If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. See *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) (“[the] specification, having described the whole, necessarily described the part remaining.”). See also *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983), *aff’d mem.*, 738 F.2d 453 (Fed. Cir. 1984). The mere absence of a positive recitation is not basis for an exclusion. Any claim containing a negative limitation which does not have basis in the original disclosure should be rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

6. As to claims 2 and 6, the applicant argues the prior art relied upon fails to disclose preloading a portion of descendant webpages for some, but not all, of a selectable number of webpages. This amendment is unsupported by the specification and raises issues of new subject matter under 35 U.S.C. 112, first paragraph. Namely, the prior language of “preloading a selectable number of webpages pointed to by a selectable number of hyperlinks in the queue of hyperlinks” was directed to the concept of child (or descendant) webpages

themselves. Therefore, the amendment raises the issue of new matter, as the applicant is further defining descendant webpages on the child webpages which have already been addressed by the prior art in the previous Office action. Children webpages descending from other children webpages are not supported by the specification as filed.

7. As to claim 22, the claim is argued similarly to reasoning provided above for claims 1-2 and 6. Therefore, the claim is refuted for reasons similar to those given by the examiner above.

Additionally, the applicant argues the claim has been amended to read “wherein said hyperlink list by default is not displayed.” The language appears to have been added as a negative limitation intended to contrast against the prior art. The applicant is directed to section 2173.05(i) of the MPEP, which states in part:

Any negative limitation or exclusionary proviso must have basis in the original disclosure. If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. See *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) (“[the] specification, having described the whole, necessarily described the part remaining.”). See also *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983), *aff’d mem.*, 738 F.2d 453 (Fed. Cir. 1984). The mere absence of a positive recitation is not basis for an exclusion. Any claim containing a negative limitation which does not have basis in the original disclosure should be rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Furthermore, the prior art of Smith discloses such an embodiment was known in the prior art (Col. 2, ln. 36-47).

8. As to claim 30, the claim is argued similar to the reasoning provided above for claim 1 above. Therefore, the claim is refuted for reasons similar to those given by the examiner above.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 1-2, 6-10, 16-17, 19, 21-31, and 33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

11. As to claim 1, the phrase "not initiated automatically during off hours based on historical searching patterns of the user" raises the issue of new subject matter. This language is unsupported by the specification as filed. The language appears to have been added as a

negative limitation intended to contrast against the prior art of Smith. The applicant is directed to section 2173.05(i) of the MPEP, which states in part:

Any negative limitation or exclusionary proviso must have basis in the original disclosure. If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. See *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) (“[the] specification, having described the whole, necessarily described the part remaining.”). See also *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983), *aff’d mem.*, 738 F.2d 453 (Fed. Cir. 1984). The mere absence of a positive recitation is not basis for an exclusion. Any claim containing a negative limitation which does not have basis in the original disclosure should be rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

12. As to claims 2, 6-8, and 21, the claims are rejected due to their dependency on, and inclusion of, the subject matter of claim 1 above.

Furthermore, claim 2 is separately rejected due to its own separate inclusion of new subject matter. Namely, the prior language of “preloading a selectable number of webpages pointed to by a selectable number of hyperlinks in the queue of hyperlinks” was directed to the concept of child (or descendant) webpages themselves. Therefore, the amended language of “descendant webpages are preloaded for some, but not all, of said selectable number of webpages” raises the issue of new matter, as the applicant is further defining descendant webpages on the child webpages which have already been addressed by the prior art in the previous Office action. Children webpages descending from other children webpages are not supported by the specification as filed. Figure 19 shows that the preloaded webpages are the child webpages and the further amendment to introduce descendant pages upon these children webpages is not supported by the figure.

13. As to claim 9, the phrase “any displayed webpages are tiled in substantially equal-sized regions within the screen area” is unsupported by the specification as filed. The examiner has examined the specification and no mention of equal-sized regions, or in fact the sizing of the display areas/frames/windows at all is discussed. Therefore, the amendment appears to be a limitation added to contrast against the prior art referenced and not based on concrete language in the specification as filed.

14. As to claims 10, 16-17, and 19, the claims are rejected due to their dependency on, and inclusion of, the rejected subject matter of claim 9 above.

15. As to claim 22, the claim is rejected for reasons similar to claims 1-2 above.

16. As to claims 23-29, the claims are rejected due to their dependency on, and inclusion of, the rejected subject matter of claim 22 above.

17. As to claim 30, the claim is rejected due to reasons similar to claim 1 above.

18. As to claims 31 and 33, the claims are rejected due to their dependency on, and inclusion of, the rejected subject matter of claim 30 above.

19. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

20. Claims 9-10, 16-17, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

21. The term "substantially" in claim 9 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

22. As to claims 10, 16-17, and 19, the claims are rejected due to their dependency on, and inclusion of, the rejected subject matter of claim 9 above.

Claim Rejections - 35 USC § 102

23. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

24. Claim 9 is rejected under 35 U.S.C. 102(e) as being anticipated by Rodefer et al.
(Rodefer), U.S. Publication No. 2003/0120779 A1.

25. As to claim 9, Rodefer discloses a method of displaying and operating on webpages in a single web browser instance on a user's computer ([0040]), including:

simultaneously displaying at least a first and a second fully functional webpage in said web browser instance such that said at least first and second fully functional webpages are simultaneously visible to the user and may be operated on by the user, and wherein any of said at least first and second fully functional webpages may be operated on independently without altering the state of another said at least first and second fully functional webpages, and wherein any displayed webpages are tiled in substantially equal-sized regions within the

screen area ([0040]; the phrase substantially equal-sized is unsupported by the specification as filed and a relative term as discussed in the corresponding 35 U.S.C. 112 rejections above).

Claim Rejections - 35 USC § 103

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. Claims 1-2, 6, 10, 16, 19, 22-24, 26, 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bates et al. (Bates), U.S. Patent No. 6,990,494 B2, in view of Smith et al. (Smith), U.S. 6,742,033 B1, and further in view of Rodefer.

28. As to claim 1, Bates discloses a method for retrieving and viewing webpages in a single web browser instance operating on a user's computer (Col. 3, ln. 36-42; Col. 4, ln. 1-4), comprising the sequential steps of:

submitting, from said web browser, a search request to an Internet search engine located on the Internet (Fig. 1, items 170 and 180; Col. 3, ln. 11-16 and 36-42), wherein said

search request is initiated by the user and is not initiated automatically during off hours based on historical searching patterns of the user (Fig. 2; Col. 3, ln. 31-47);

receiving a hyperlink list from said search engine (Col. 3, ln. 39-42), said hyperlink list having been automatically rank-ordered by said search engine (Col. 1, ln. 26-36), to form a queue of rank-ordered hyperlinks (Col. 1, ln. 26-36).

Bates is silent on automatically loading a plurality of webpages referred to by said queue of rank-ordered hyperlinks to form a rank-ordered queue of webpages stored on the user's computer; and

viewing said webpages in the single web browser instance.

However, Smith discloses automatically loading a plurality of webpages referred to by said queue of rank-ordered hyperlinks to form a rank-ordered queue of webpages stored on the user's computer (Abstract, ln. 1-6; Col. 2, ln. 36-40; Col. 3, ln. 5-8; Col. 4, ln. 62 – Col. 5, ln. 12).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bates in the aforementioned manner as taught by Smith in order to automatically pre-cache websites during off-peak hours that may then be accessed by a user in the future at a faster speed (Smith: Col. 1, ln. 55-61; Col. 1, ln. 65 – Col. 2, ln. 1).

Bates and Smith are silent on viewing said webpages in a single web browser instance.

However, Rodefer discloses viewing said webpages in a single web browser instance ([0040], ln. 10-16).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bates and Smith in the aforementioned manner as taught by Rodefer in order to provide “quick access, viewing, and comparison of said sites/pages” returned by a search engine (Rodefer: [0040]).

29. As to claim 2, Bates, Smith, and Rodefer disclose the invention substantially as in parent claim 1, where said loading is accomplished by preloading a selectable number of webpages pointed to by a selectable number of hyperlinks in the queue of hyperlinks, and wherein descendant webpages are preloaded for some, but not all, of said selectable number of webpages (Bates: Col. 3, ln. 44-47; Smith: Col. 2, ln. 36-40; Rodefer: [0040]).

30. As to claims 6, 16, 23-24, and 26, the claims are rejected for reasons similar to claim 2 above.

31. As to claim 10, the claim is rejected for reasons similar to claim 1 above.

32. As to claim 19, the claim is rejected for reasons similar to claim 1 above.

It may be interpreted that the user may close the browser (as all browsers include an option to close the program) or close individual frames (such as those displayed in Rodefer).

33. As to claim 22, the claim is rejected for reasons similar to claims 1-2 and 9 above.

34. As to claim 29, the claim is rejected for reasons similar to claim 19 above.

35. As to claim 30, the claim is rejected for reasons similar to claims 1 and 9 above.

Additionally, Rodefer discloses simultaneously submitting, from said web browser, a search request to multiple Internet search engines located on the Internet ([0037]).

36. As to claim 31, the claim is rejected for reasons similar to claim 9 above.

37. Claims 7, 17, 21, 25, 27, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bates, Smith, and Rodefer as applied to claims 1, 10, 22, and 30 above, and further in view of Berstis, U.S. Patent No. 6,182,122 B1.

38. As to claim 7, Bates, Smith, and Rodefer disclose the invention substantially as in parent claim 1, but are silent on said loading is accomplished by determining the available

network download bandwidth and preloading a number of webpages based on such available network download bandwidth.

However, Berstis discloses loading is accomplished by determining the available network download bandwidth and preloading a number of webpages based on such available network download bandwidth (Col. 10, ln. 18-47; Col. 11, ln. 16-26).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bates, Smith, and Rodefer in the aforementioned manner as taught by Berstis in order “to minimize transfer time both from the source and to individual users, and to require minimal resources at the server” (Berstis: Col. 2, ln. 52-54).

39. As to claim 21, Bates, Smith, and Rodefer disclose the invention substantially as in parent claim 1, but are silent on selectively saving the queue of hyperlinks or a portion thereof as a group bookmark hyperlink list that may be loaded in a web browser at a later time.

However, Berstis discloses selectively saving a queue of hyperlinks or a portion thereof as a group bookmark hyperlink list that may be loaded in a web browser at a later time (Col. 7, ln. 8-28).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bates, Smith, and Rodefer in the aforementioned

manner as taught by Berstis in order to bookmark frequently visited webpages, thus increasing ease of use by eliminating the need to remember and enter a web address repeatedly.

40. As to claims 17, 25, and 33, the claims are rejected for reasons similar to claim 21 above.

41. As to claim 27, the claim is rejected for reasons similar to claim 7 above.

42. Claims 8 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bates, Smith, and Rodefer as applied to claims 1 and 22 above, in view of Berstis, and further in view of Martin et al. (Martin), U.S. Patent No. 5,867,706.

43. As to claim 8, Bates, Smith, and Rodefer disclose the invention substantially as in parent claim 1, but are silent on said loading is accomplished by determining that the computer isn't saturated and preloading a predetermined number of webpages based on such non-saturation state.

However, Berstis discloses loading is accomplished by determining that the computer isn't saturated and preloading a predetermined number of webpages based on such non-saturation state (Col. 10, ln. 18-47).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bates, Smith, and Rodefer in the aforementioned manner as taught by Berstis in order "to minimize transfer time both from the source and to individual users, and to require minimal resources at the server" (Berstis: Col. 2, ln. 52-54).

Bates, Smith, Rodefer, and Berstis are silent on determining if the computer processor(s) specifically are saturated.

However, Martin discloses determining if the computer processor(s) specifically are saturated (Col. 8, ln. 41-53).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bates, Smith, Rodefer, and Berstis by determining if computer processors are saturated as taught by Martin in order to avoid unacceptable response times (Martin: Col. 8, ln. 41-53).

44. As to claim 28, the claim is rejected for reasons similar to claim 8 above.

Conclusion

45. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the Notice of References Cited (PTO-892).

46. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

47. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN P. WHIPPLE whose telephone number is (571)270-1244. The examiner can normally be reached on Mon-Fri (8:30 AM to 5:00 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on 571-272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian P. Whipple
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Examiner, Art Unit 2448
10/28/10

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